

FACSIMILE TRANSMITTAL FORM	Application Number	10/658,854
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	First Named Inventor	Hamerski, Michael D.
	Art Unit	3632
	Examiner Name	Naschica S. Morrison
	Attorney Docket Number	56127US008
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Patent
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: **HAMERSKI, MICHAEL D.**Application No.: **10/658,654**Group Art Unit: **3632**Filed: **September 9, 2003**Examiner: **Naschica S. Morrison**Title: **HANGER**BRIEF ON APPEALMail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
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Apr. 22, 2005

Date

Signed by: Susan P. Gurnatz

Dear Sir:

This is an appeal from the Office Action mailed on November 30, 2004, finally rejecting claims 1-20.

A Notice of Appeal in this application was sent via facsimile on February 23, 2005, and was received in the USPTO on February 23, 2005.

The fee required under 37 CFR § 41.20(b)(2) for filing an appeal brief should be charged to Deposit Account No. 13-3723.

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REAL PARTY IN INTEREST

The real party in interest is 3M Company (formerly known as Minnesota Mining and Manufacturing Company) of St. Paul, Minnesota and its affiliate 3M Innovative Properties Company of St. Paul, Minnesota.

RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals or interferences.

STATUS OF CLAIMS

Claims 1-20 are pending and stand rejected under 35 USC 103(a).

STATUS OF AMENDMENTS

No amendments have been filed after the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The claims at issue concern a paper hanger for supporting one or more sheets of paper. As claimed in claim 1 and with reference to a first embodiment in Figures 1-3 of the drawing, the paper hanger 10 comprises a base 12 having a supported surface 13 adapted to be positioned along a generally vertical surface, and an opposite outer surface 15; and an elongate peg 16 having a longitudinal axis 17 and first and second longitudinally spaced ends 18 and 19, a portion of the peg 16 adjacent its first end 18 being mounted on the base 12 in a use position with the axis 17 of the peg 16 being generally at a right angle with respect to the supported surface 13, and a major portion of the peg 16 adjacent its second 19 end projecting from the outer surface 15 of the base 12. That major portion of the peg 16 has a diameter of less than about 0.17 inch (0.43 centimeter), has a generally uniform cross sectional area along its length, and has an axially extending surface portion 20 adapted to be positioned uppermost when the supported surface 13 is positioned along a generally vertical surface, only the axially extending surface portion 20 of said peg 16 being adapted to restrict free movement of sheets of paper around the peg 16 axially of the peg 16 (see spec, page 2, lns 9-18; Figures 1-3; page 4, ln 18 to page 5, ln 2).

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The axially extending surface portion of the peg can define closely spaced sharp edges that are adapted to restrict free movement of sheets of paper around said peg axially of said peg (claim 2; spec., page 2, lns 18-20; page 4, lns 28-29). Those sharp edges can be defined by machine screw threads extending around the axis of the peg (claim 3; spec., page 2, lns 20-21; page 4, ln 30; page 5, lns 3-4); the peg can be serrated to form peaks having those sharp edges (claim 4; spec., page 2, ln 22; Figure 6; page 6, ln 26); the peg can include a coating of abrasive granules that have those sharp edges (claim 5; spec., page 2, lns 22-23; Figure 7; spec. page 7, lns 18-30); or the peg can have axially spaced transverse ridges only on its axially extending surface portion that have those sharp edges (claim 6; spec., page 2, lns 20-21).

The peg can include a coating of adhesive defining its axially extending surface portion that is adapted to restrict free movement of sheets of paper around said peg axially of said peg (claim 7; spec., page 2, lns 18-19; Figure 8; page 7, ln 31 to page 8, ln 14).

The second end of the peg can be pointed to facilitate pressing sheets over the peg (claim 8; spec., page 3, lns 3-10; Figure 1; spec., page 5, lns 19-28).

The major portion of the peg adjacent its second end can project from the outer surface of the base by a distance in a range of about 0.15 to 0.30 inch or 0.38 to 0.76 centimeter, and the peg can have a diameter of about 0.11 inch or 0.28 centimeter (claims 9 and 10; spec., page 2, lns 24-31; page 5, lns 5-11).

The paper hanger can include a length of stretch release adhesive adhered to the supported surface of the base and adapted for adhering said base to a generally vertical surface (claim 11; spec., page 3, lns 17-22; page 5, ln 29 to page 6, ln 10).

Also, the portion of the peg adjacent its first end can be mounted on the base for movement of the peg between its use position and a storage position with the peg extending along the outer surface of the base (claim 12; spec., page 3, lns 11-16; Figures 9-11; page 8, ln 18 to page 9, ln 4).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Independent claim 1 and claims 2, 4, 6, 9, and 10 dependent on claim 1 stand rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Japanese Patent 10-95495 to Sekikawa;

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independent claim 1 and claims 2-4, 6 and 8-10 dependent on claim 1 stand rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Swiss Patent 247,664 to Schlaeppi in view of U.S. Patent No. 5,129,297 to Bussi; and **independent claim 1**, and claims 2-4, 6, 8-10 and 12 dependent on claim 1 stand rejected under 35 U.S.C. 103(a) as purportedly unpatentable over U.S. Patent No. 4,040,149 to Einhorn in view of Bussi. Claim 5 dependent on claim 1 stands rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Sekikawa in view of U.S. Patent No. 2,866,583 to Batts and further in view of U.S. Patent 5,690,561 to Rowland et al. Claim 7 dependent on claim 1 stands rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Sekikawa in view of Batts. Claim 11 dependent on claim 1 stands rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Sekikawa in view of U.S. Patent No. 6,106,937 to Hamerski, and also as purportedly unpatentable over Schlaeppi in view of Bussi and further in view of Hamerski.

Independent claim 13 and claims 15, and 17 to 20 dependent on claim 1 stand rejected under 35 U.S.C. 103(a) as purportedly unpatentable over U.S. Patent No. 3,430,301 to Venus in view of Sekikawa. Claim 14 dependent on claim 13 stands rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Venus in view of Sekikawa in view of Schlaeppi and further in view of Bussi. Claim 16 dependent on claim 13 stands rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Venus in view of Sekikawa and further in view of U.S. Patent No. 5,690,561 to Rowland et al.

ARGUMENT

Sekikawa, Schlaeppi, and Einhorn all describe hangers that, like the hanger according to the present invention as claimed in claim 1, include a base having a supported surface adapted to be positioned along a generally vertical surface, and an opposite outer surface; an elongate peg having a longitudinal axis and first and second longitudinally spaced ends, a portion of which peg adjacent its first end is mounted on the base in a use position with the axis of said peg projecting away from said supported surface, at least a major portion of which peg adjacent its second end projects from the outer surface of the base. Also, the pegs described in these references have axially extending surface portions adapted to be positioned uppermost when the

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supported surface is positioned along a generally vertical surface. Additionally, like the embodiment of the hanger according to the present invention claimed in claim 2, the pegs described in Sekikawa and Schlaeppli define sharp edges along their surface portions that in Schlaeppli, (but not in Sekikawa) are defined by screw threads extending around the axis of the peg as is claimed in claim 3.

Unlike the hanger according to the present invention, however, the hanger described by Sekikawa is of a well known type used for supporting a number of clothes hangers engaged with garments such as the garment or coat illustrated in Figure 7 thereof and would necessarily be a large strong structure in order to be able to support such clothes hangers and garments. Normal sized sheets of paper pressed over the end of the hanger described by Sekikawa would be significantly destroyed by the opening that would be formed in them by the end of the hanger.

In contrast, the paper hanger according to the present invention as claimed in claim 1 is for supporting one or more sheets of paper, and the major portion of the peg on which the paper sheets are supported has a diameter of less than about 0.17 inch (0.43 centimeter) which is significantly smaller than the diameter of clothes hangers of the type described by Sekikawa so that the paper hanger according to the present invention is suitable for supporting sheets of paper in that it only requires or forms a small opening through them, but would not have sufficient size or strength to support a number of clothes hangers engaged with garments. It would not have been obvious to one skilled in the art of hangers to miniaturize a clothes hanger of the type described by Sekikawa for the purpose of making a paper hanger.

Also, unlike the hanger according to the present invention, the hanger described by Schlaeppli has a tapered end portion 1 like that of a wood screw that is adapted to be embedded in a rigid object such as a picture frame (6), after which the hanger is supported in a fixed position on the rigid object in which it is embedded so that a barb (4) on its base can be pressed into a wall (7) and will then support along the wall (7) the rigid object (6) in which the hanger is embedded. The hanger described by Schlaeppli is not suitable for supporting flexible objects such as sheets of paper which can not help maintain the barb (4) in engagement with the wall.

In contrast to the structure of Schlaeppli, the paper hanger according to the present invention as claimed in claim 1 is for supporting one or more sheets of paper, and the major

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portion of the peg on which the paper sheets are supported has a generally uniform cross sectional area along its length. Sharp edges along that major portion as claimed in claim 2 can be defined by machine screw threads rather than wood screw threads, as is claimed in claim 3.

Additionally, unlike the hanger according to the present invention, the peg (67) on the hanger described by Einhorn with reference to Figure 17 has a smooth tapered periphery, projects upwardly (see column 8, lines 36-39 of Einhorn) with respect to the support surface (66) on its base (69) in order to retain an object about it, and is adapted to be embedded in a rigid object such as a picture frame (70) (see Figures 19 and 20 and column 8, lines 43-55 of Einhorn), after which the hanger is supported in a fixed position on the rigid object in which it is embedded so that a barb (68) on its base can be pressed into a wall and will then support the frame (70) along the wall in which the barb (68) is embedded.

In contrast, the paper hanger according to the present invention as claimed in claim 1 is for supporting one or more sheets of paper, and the major portion of the peg on which the paper sheets are supported has a generally uniform cross sectional area along its length, projects generally at a right angle with respect to the supported surface on its base, and only an axially extending surface portion of the peg restricts free movement of sheets of paper around the peg axially of the peg.

There is no teaching or suggestion in Sekikawa or in Schlaeppli or in Einhorn to use their pegs to support sheets of paper, nor to provide a peg for supporting the sheets of paper that projects generally at a right angle with respect to the supported surface on its base and has a major portion with a diameter of less than about 0.17 inch (0.43 centimeter) and a generally uniform cross sectional area along its length. There is no teaching or suggestion in Sekikawa or in Schlaeppli or in Einhorn that these features were recognized as result effective variables. For this reason, no basis exists for the Examiner's Conclusion that it would have been obvious to adapt these features based on "optimization of proportions in a prior art device" as a "design consideration". See in re Antonie, 559 F.2nd 618, 620, 195 USPQ 6, 8-9 (CCPA 1977). The Examiner's obviousness conclusion lacks the requisite suggestion for the proposed modifications as well as the requisite reasonable expectation that the proposed modifications would be successful. See In re O'Farrell, 853 F.2nd 846, 850-51, 7 USPQ2nd 1673, 1680-81 (Fed. Cir.

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1988). Thus, the structure for a paper hanger recited in claim 1 is not made obvious by Sekikawa or by Schlaeppli or by Einhorn.

Nor is there any teaching or suggestion in Bussi to modify the structures of either Schlaeppli or Einhorn and thereby make obvious the present invention as claimed in claim 1. Bussi describes a "locator element" having a threaded end portion adapted to engage a structure, and a larger protruding pointed portion projecting from that threaded end portion that will pierce a construction panel pressed against it and then indicate along the construction panel the location of the structure with which its treaded end portion is engaged.

With reference to combining the descriptions of Schlaeppli and Bussi the Examiner has suggested "It would have been obvious to one of ordinary skill at the time the invention was made to have modified the hanger" of Schlaeppli "by substituting the fastener/peg (3) of Bussi for the peg because one would have been motivated to provide a means for self-tapping into objects formed of metal as taught by Bussi." We are uncertain of what part of Bussi's structure the Examiner would substitute for what part of Schlaeppli's structure, or how self tapping into metal objects relates to forming paper hangers. The structures described by Schlaeppli and Bussi are for totally different purposes, neither is a paper hanger, and we find no teaching or suggestion in Bussi to modify the structure of Schlaeppli to provide a paper hanger having the structure claimed in claim 1.

With reference to combining the descriptions of Einhorn and Bussi the Examiner has suggested "Bussi discloses a member (Fig.3) comprising a fastener (3) including a machine screw threaded portion (at 3) having a uniform cross-section area along its length. It would have been obvious to one of ordinary skill at the time the invention was made to have modified the hanger of Einhorn by substituting the fastener/peg (3) of Bussi for the peg (67) because one would have been motivated to provide a means for self-tapping into objects formed of metal as taught by Bussi (col. 4, lines 50-55)." We are again uncertain of how self tapping into metal objects relates to forming paper hangers. The structures described by Einhorn and Bussi are for totally different purposes, neither is suitable for a paper hanger, and we find no teaching or suggestion in Bussi to modify the structure of Einhorn to provide a paper hanger having the structure claimed in claim 1. It is only the applicant's own disclosure that provides any teaching

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or suggestion for the combination of structural features recited in claim 1. The Examiner's obviousness conclusion is based upon impermissible hindsight rather than upon some teaching suggestion or incentive derived from the applied prior art.

Claim 1 should be allowed.

Claims 2 through 12 are dependent on claim 1, and thus are allowable for all of the reasons given above with respect to claim 1. Additionally, these dependent claims include further structural limitations that are not shown or suggested in the claimed combination by the cited art. For example, claim 2 recites that the axially extending surface portion of the peg defines closely spaced sharp edges that restrict free movement of sheets of paper around peg axially of the peg, whereas claim 4 recites that the peg is serrated to form peaks having those sharp edges, claim 5 recites that the peg includes a coating of abrasive granules that have those sharp edges, and claim 6 recites that the peg in the hanger according to the present invention has axially spaced transverse ridges providing sharp edges only on the axially extending surface portion. Claim 7 recites that the peg includes a coating of adhesive defining the axially extending surface portion of the peg that restricts free movement of sheets of paper around the peg axially of the peg.

The Examiner has rejected claim 5 (which recites that the peg includes a coating of abrasive granules) under 35 U.S.C. 103(a) as being unpatentable over Sekikawa in view of U.S. Patent No. 2,866,583 to Batts and further in view of U.S. Patent 5,690,561 to Rowland et al. (Rowland). As noted above, Sekikawa does not teach or even suggest a paper hanger for supporting one or more sheets of paper, nor does Sekikawa suggest such a paper hanger in which an axially extending surface portion on the peg restricts free movement of sheets of paper around the peg axially of the peg because of sharp edges provided by abrasive granules. Batts describes granules of a soft resilient material such as rubber (see col. 2, lns 31-36) on various types of clothes hangers to restrict slippage of clothes from around the hanger. Batts indicate that abrasive particles would not be useful for his purposes (see col. 5, lns 64-66). Rowland describes the use of sharp edges provided by serrations or abrasive granules on the face of a golf club to affect movement of a golf ball struck by the club. Sekikawa, Batts and Rowland describe structures from unrelated fields of art, none of which have anything to do with hangers for sheets of paper.

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and there is no teaching or suggestion in any of those references that would make obvious a paper hanger having the features for a paper hanger claimed in claim 5.

The Examiner has rejected claims 7 under 35 U.S.C. 103(a) as being unpatentable over Sekikawa in view of Batts suggesting that Batts describes "an adhesive coating of abrasive granules (22)". As noted above, Batts describes granules of a soft resilient material such as rubber (see col. 2, lns 31-36). Claim 7, recites that the peg includes a coating of adhesive (not granules held in place by adhesive) defining the axially extending surface portion of the peg that restricts free movement of sheets of paper around the peg axially of the peg. There is no teaching or suggestion of such use of a coating of adhesive in Batts.

Claim 9 recites that a major portion of the peg adjacent its second end projects from said the outer surface of its base by a distance in a range of about 0.15 to 0.30 inch (0.38 to 0.76 centimeter); whereas claim 10 recites that feature together with the feature that the peg has a diameter of about 0.11 inch (0.28 centimeter). The Examiner has rejected these claims under 35 U.S.C. 103(a) as being unpatentable over Sekikawa or Schlaeppi in view of Bussi. Neither of these features is either taught or suggested by any of those references, however.

Dependent claim 12 recites that a portion of the peg adjacent its first end is mounted on the base for movement of the peg between its use position and a storage position with the peg extending along the outer surface of the base. The Examiner has rejected claim 12 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,040,149 to Einhorn in view of Bussi.

Einhorn, like Bussi, has nothing to do with hangers for sheets of paper. While the hanger of Figure 34 in Einhorn has a hook (143) movable between two positions with respect to a base (140), there is not the faintest suggestion in Bussi that a peg of the type claimed in claim 12 should be substituted for that hook, since the structures described by Einhorn and Bussi are for totally different purposes, and neither is suitable for a paper hanger.

Independent claim 13 recites the combination of at least one sheet of paper with a through opening, and a hanger for the sheet of paper, which hanger comprises a major portion of a peg projecting from a base that has a diameter of less than about 0.17 inch (0.43 centimeter), a generally uniform cross sectional area along its length, and an axially extending surface portion defining closely spaced sharp edges, which portion of the peg extends through the opening in the

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sheet of paper, the surface portion defining the sharp edges being adapted to be positioned uppermost when the supported surface is positioned along a generally vertical surface so that only the sharp edges restrict movement of the sheet of paper around said peg axially of the peg. The Examiner has rejected claim 13 (together with claims 15 and 17 dependent on claim 13) under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,430,301 to Venus in view of Sekikawa.

Venus is the only references cited by the Examiner against the claims in this application that describes a hanger for sheets of paper. The structure of the hanger described by Venus, however, is significantly different than the structure of the paper hanger claimed in claim 13. As noted by the Examiner, Venus does not describe a peg that is mounted at a right angle with respect to a supported surface or a surface portion defining closely spaced sharp edges. There is no teaching or suggestion in Sekikawa to modify the structures described by Venus to provide those structures. The clothes hanger described by Sekikawa has nothing to do with hanging sheets of paper, and does not describe or suggest a peg having a diameter of less than about 0.17 inch (0.43 centimeter). Thus, claim 13 should be allowed together with claims 15 and 17 dependent on claim 13.

Claims 14 and 16 are dependent on claim 13 and are thus allowable for all of the reasons given above with respect to claim 13. Additionally, these claims recite further structural limitations that are not shown or suggested by the cited art; specifically, claim 14 recites that the sharp edges of the surface portion are defined by machine screw threads, whereas claim 16 recites that the peg includes a coating of abrasive granules that have those sharp edges. The Examiner has added Schlaeppli to the combination of Venus and Sekikawa in rejecting claim 14; and has added Rowland et al to the combination of Venus and Sekikawa in rejecting claim 16. As noted above, however, the structure described by Schlaeppli has nothing to do with a hanger for sheets of paper, provides no teaching or suggestion to modify the structures of Venus or Sekikawa, and thus would not make obvious the threads claimed in claim 14. In any event, the threads described in Schlaeppli are tapered woodscrew threads, whereas claim 14 recites machine screw threads which are not tapered. Also for the reasons stated above with respect to claim 5

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there is no teaching or suggestion in Rowland et al to use abrasive granules to form sharp edges on the claimed surface portion of a paper hanger. Thus claims 14 and 16 should also be allowed.

CONCLUSION

For the foregoing reasons, Appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Respectfully submitted,

April 22, 2005
Date

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CLAIMS APPENDIX

1. A paper hanger for supporting one or more sheets of paper, said paper hanger comprising:
 - a base having a supported surface adapted to be positioned along a generally vertical surface, and an opposite outer surface;
 - an elongate peg having a longitudinal axis and first and second longitudinally spaced ends, a portion of said peg adjacent said first end being mounted on said base in a use position with the axis of said peg being generally at a right angle with respect to said supported surface, and a major portion of said peg adjacent said second end projecting from said outer surface, said major portion of said peg having a diameter of less than about 0.17 inch (0.43 centimeter), having a generally uniform cross sectional area along its length, and having an axially extending surface portion adapted to be positioned uppermost when said supported surface is positioned along a generally vertical surface, only said axially extending surface portion of said peg being adapted to restrict free movement of sheets of paper around said peg axially of said peg.
2. A paper hanger according to claim 1 wherein said axially extending surface portion of said peg defines closely spaced sharp edges that are adapted to restrict free movement of sheets of paper around said peg axially of said peg.
3. A paper hanger according to claim 2 wherein said sharp edges are defined by machine screw threads extending around the axis of said peg.
4. A paper hanger according to claim 2 wherein said peg is serrated to form peaks having said sharp edges.
5. A paper hanger according to claim 2 wherein said peg includes a coating of abrasive granules that have said sharp edges.

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6. A paper hanger according to claim 2 wherein said peg has axially spaced transverse ridges only on said axially extending surface portion that have said sharp edges.
7. A paper hanger according to claim 1 wherein said peg includes a coating of adhesive defining said axially extending surface portion of said peg that is adapted to restrict free movement of sheets of paper around said peg axially of said peg.
8. A paper hanger according to claim 1 wherein said second end of said peg is pointed.
9. A paper hanger according to claim 1 wherein said major portion of said peg adjacent said second end projects from said outer surface of said base by a distance in a range of about 0.15 to 0.30 inch (0.38 to 0.76 centimeter).
10. A paper hanger according to claim 1 wherein said peg has a diameter of about 0.11 inch (0.28 centimeter) and said major portion of said peg adjacent said second end projects from said outer surface of said base by a distance in a range of about 0.15 to 0.30 inch (0.38 to 0.76 centimeter).
11. A paper hanger according to claim 1 further including a length of stretch release adhesive adhered to the supported surface of said base and adapted for adhering said base to a generally vertical surface.
12. A paper hanger according to claim 1 wherein said portion of said peg adjacent said first end is mounted on said base for movement of said peg between said use position and a storage position with said peg extending along the outer surface of said base.

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13. A combination including
at least one sheet of paper, said sheet of paper having a through opening; and
a hanger for the sheet of paper, said hanger comprising:
a base having a supported surface adapted to be positioned along a generally vertical surface, and an opposite outer surface; and
an elongate peg having a longitudinal axis and first and second longitudinally spaced ends, a portion of said peg adjacent said first end being mounted on said base with the axis of said peg being generally at a right angle with respect to said supported surface, and a major portion of said peg adjacent said second end projecting from said outer surface, said major portion of said peg having a diameter of less than about 0.17 inch (0.43 centimeter), having a generally uniform cross sectional area along its length, and having an axially extending surface portion defining closely spaced sharp edges, said portion of said peg adjacent said second end extending through said opening in said sheet of paper, and said surface portion defining said sharp edges being adapted to be positioned uppermost when said supported surface is positioned along a generally vertical surface so that only said sharp edges restrict movement of said sheet of paper around said peg axially of said peg.
14. A combination according to claim 13 wherein said sharp edges are defined by machine screw threads extending around the axis of said peg.
15. A combination according to claim 13 wherein said peg is serrated to form peaks having said sharp edges.
16. A combination according to claim 13 wherein said peg includes a coating of abrasive granules that have said sharp edges.
17. A combination according to claim 13 wherein said second end of said peg is pointed.

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18. A paper hanger according to claim 13 wherein said peg has axially spaced transverse ridges only on said axially extending surface portion that have said sharp edges.

19. A paper hanger according to claim 13 wherein said major portion of said peg adjacent said second end projects from said outer surface of said base by a distance in a range of about 0.15 to 0.30 inch (0.38 to 0.76 centimeter).

20. A paper hanger according to claim 13 wherein said peg has a diameter of about 0.11 inch (0.28 centimeter) and said major portion of said peg adjacent said second end projects from said outer surface of said base by a distance in a range of about 0.15 to 0.30 inch (0.38 to 0.76 centimeter).